

ISSUED: September 20, 2002

D.T.E. 02-13-E

Investigation by the Department of Telecommunications and Energy on its own motion, pursuant to G.L. c. 159, §§ 12, 32, and 39 and G.L. c. 166, §§ 11 and 12, regarding the failure by several individually named common carriers of telecommunications services to file their annual returns for the year 2000 by March 31, 2001 and to pay statutory forfeitures.

---

In the Matter of

Advanced Communications Systems  
Small Business Billing, Inc.

D.T.E. 02-13-1  
D.T.E. 02-13-25

## I. INTRODUCTION

The Department requires all common carriers that are engaged in the “transmission of intelligence within the commonwealth,” i.e. telecommunications services, to be registered by having an approved tariff on file with the Department as well as a current statement of business operations. Regulatory Treatment of Telecommunications Common Carriers Within the Commonwealth of Massachusetts, D.P.U. 93-98 (1994), at 12; see also G.L. c. 159, § 12. All common carriers of telecommunications services within the Commonwealth also must file with the Department annual returns for the year ended December 31, by March 31 of the following year, in a format prescribed by the Department. G.L. c. 159, §§ 12, 32; G.L. c. 166, § 11. Therefore, the deadline for filing annual returns for the year 2000 was March 31, 2001, absent any extensions that the Department may grant for good cause. G.L. c. 159, § 32; G.L. c. 166, § 11.

Any telephone company that neglects to file the required annual return forfeits to the Commonwealth five dollars per day for the first fifteen days that the neglect continues, ten dollars per day for the next fifteen days, and fifteen dollars per day for each day thereafter. G.L. c. 166, § 12. Further, if the Department determines that a telephone company “unreasonably refuses or neglects to make such return,” the company shall forfeit up to \$500 in addition. Id. If, in the judgment of the Department, a common carrier neglects to make returns as required by law, the Department is obligated to present the facts to the Attorney General for action. G.L. c. 159, § 39.

The Department's records indicate that a significant number of telephone companies failed to file annual returns on a timely basis and pay statutory forfeitures to the Commonwealth for the year 2000. Therefore, on April 8, 2002, the Department opened separate investigations into the failure by each of these companies to file annual returns or to pay the statutory forfeiture. Although this Order pertains to two proceedings with nearly identical facts, the dockets are not consolidated; thus, the findings of fact and directives issued today are applicable to each company, individually.

## II. PROCEDURAL HISTORY

The Department opened investigations into the following companies: Advanced Communications Systems, docketed as D.T.E. 02-13-1; and Small Business Billing, Inc., docketed as D.T.E. 02-13-25. Prior to the hearings scheduled in each proceeding, the companies each informed the Department that they were no longer in business and that they did not provide telecommunications services during the year 2000. Both companies withdrew their tariffs. The Department cancelled the scheduled evidentiary hearings in these proceedings because it is not necessary to issue findings regarding their failure to file annual returns.

III. ORDER

Therefore, after notice and opportunity for comment, it is

ORDERED that the investigation relative to Advanced Communications Systems in

D.T.E. 02-13-1 be terminated; and it is

FURTHER ORDERED that the investigation relative to Small Business Billing, Inc. in

D.T.E. 02-13-25 be terminated.

By Order of the Department,

\_\_\_\_\_  
/s  
Paul B. Vasington, Chairman

\_\_\_\_\_  
/s  
James Connelly, Commissioner

\_\_\_\_\_  
/s  
W. Robert Keating, Commissioner

\_\_\_\_\_  
/s  
Eugene J. Sullivan, Jr., Commissioner

\_\_\_\_\_  
/s  
Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).